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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,030	12/01/2003	Bo Karlsson	13710	4710

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ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO, IL 60604

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/726,030

Applicant(s)

KARLSSON, BO

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,6,10-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,6,10-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 6, 10-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward in view of Brickman.

Woodward discloses a portable bucket with carrying handle, the bucket has a triangular horizontal cross section. Woodward discloses the invention except for (1) two short sides of identical length, (2) the right angle (90 degree angle) between the two short sides, (3) the pivot bearings being located below an upper peripheral edge, (4) the pivot bearings situated in a vertical plane located at a point approximately 1/3 across the width of the bucket between the longest side and the right angle and (5) the incline slightly outwards from the bottom of the bucket which allows stacking or nesting.

Brickman discloses a triangular gasoline can with a triangular horizontal cross section with two short sides of identical length and a right angle between the two short sides. It would have been obvious to modify the bucket to have two identical short sides and a right angle between the two short sides in order to provide a configuration which efficiently packages into a square dimensional space when a second identical bucket is placed next to a first bucket with the long sides adjacent and touching.

Official notice is taken that pivot bearings being located below an upper peripheral edge is well known. It would have been obvious to modify the pivot bearings of Woodward to be below the upper rim to lower the profile of the bucket such that it occupies less vertical height

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when the handle is folded down or along the side of the bucket, to make the bucket easier to store on a shelf or space of limited vertical height.

(1) Official notice is taken that it is well known to place a handle such that it extends over a center of mass of a bucket in a carrying position so that a filled bucket may be carried upright with minimal listing or tipping such that spilling is minimized. Circular buckets with the handle extending over the center of the circle are well known. (2) Official notice is taken that it is well known that the center of mass point of a right triangle with two identical length sides will be $\frac{1}{3}$ of the distance along a line extending perpendicularly from the long side towards the right angle. Therefore, the center of mass of the bottom wall is well defined. (3) Official notice is taken that the approximate center of mass of the sidewalls of the bucket will be approximately at a point directly above the bottom wall center of mass but slightly positioned more towards the long side. (4) Official notice is taken that design choice would dictate that the handle be placed such that the bucket could be carried at a minimal distance from a person's body so as not to place undue strain of arms, hips and the back of the person. (5) Official notice is taken that the shortest distance from the center of mass of the right triangle described above to a side is the distance between the center of mass and the long side. It would have been obvious to position the handle at an approximate position over these center of mass points such that the pivot bearings are situated in a vertical plane located at a point approximately $\frac{1}{3}$ across the width of the bucket between the longest side and the right angle to provide for balanced carrying so that liquid is not spilled and at a position with the center of mass located closest to a person's body to reduce body strain.

Official notice is taken of supporting a handle such that it can be swung down over the upper edge of the bucket on the outside of the bucket. Official notice is taken that the shape of

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the handle is adapted to the peripheral form of the bucket between the pivot bearings. It would have been obvious to modify the shape of the handle of Woodward to (1) swing down over the upper edge on the outside of the bucket and (2) to adapt to the peripheral form of the bucket between the pivot bearings so that the handle doesn't interfere with the nestability of a plurality of buckets with pivoting handles.

Applicant's arguments filed February 27, 2007 have been fully considered but they are not persuasive. Applicant characterizes the Official notice taken by the examiner as objections. The examiner is confused to what applicant has meant to state. Official notice has absolutely no relation to an objection. The examiner has not made any objections. It is not known if applicant means to seasonably challenge the Official notice taken. It is noted that all of the Official notice taken in the last Office action is now treated as an admission of prior art because applicant has not seasonably challenged the Official notice in applicant's latest response to the first Office action mailed July 27, 2006.

In response to applicant's argument that Brickman is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Brickman is within in the field of endeavor of triangular containers and pertinent to the problem solved of packaging triangular containers in a space efficient fashion by making the cross section of the container a right triangular cross section.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc